

**BEFORE THE APPEALS BOARD
FOR THE
KANSAS DIVISION OF WORKERS COMPENSATION**

IRWIN F. ALEFS)	
Claimant)	
VS.)	
)	Docket No. 213,769
FARMERS MUTUAL INSURANCE COMPANY)	
Respondent)	
AND)	
)	
EMC INSURANCE COMPANIES)	
Insurance Carrier)	

ORDER

Claimant appeals from a February 5, 1997, Award entered by Administrative Law Judge Bruce E. Moore.

APPEARANCES

Claimant appeared by her attorney, M. John Carpenter of Great Bend, Kansas. Respondent and its insurance carrier appeared by their attorney, James M. McVay of Great Bend, Kansas.

RECORD AND STIPULATIONS

The Appeals Board considered the record and adopted the stipulations listed in the Award.

ISSUE

The Administrative Law Judge denied claimant an award of compensation finding claimant's accident did not arise out of his employment with respondent. That is the issue now before the Appeals Board.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

Having reviewed the entire record and having considered the briefs of the parties, the Appeals Board finds that the Award entered by the Administrative Law Judge should be affirmed.

The findings of fact and conclusions of law as enumerated in the Award by the Administrative Law Judge are found to be accurate and are hereby adopted by the Appeals Board. The Appeals Board agrees that claimant has not sustained his burden of proof that his injury resulted from an accident which arose out of his employment. The Appeals Board agrees with the analysis of the evidence by the Administrative Law Judge regarding the nature of the assault. That is, that claimant's injury was the result of a personal risk and, therefore, is not compensable.

AWARD

WHEREFORE, it is the finding, decision, and order of the Appeals Board that the Award entered by Administrative Law Judge Bruce E. Moore, dated February 5, 1997, should be, and is hereby affirmed in all respects and the orders contained in said Award are hereby adopted by the Appeals Board as its own.

IT IS SO ORDERED.

Dated this ____ day of August 1997.

BOARD MEMBER

BOARD MEMBER

BOARD MEMBER

c: M. John Carpenter, Great Bend, KS
James M. McVay, Great Bend, KS
Bruce E. Moore, Administrative Law Judge
Philip S. Harness, Director